IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 31ST OCTOBER 2007 / 9TH KARTHIKA 1929

Bail Appl..No. 6624 of 2007()

CRIME NO. 13/07 OF KODUNGALLUR EXCISE RANGE
CMP.7993/2007 of J.M.F.C., KODUNGALLUR

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PETITIONER : ACCUSED:

MANI @ SUBRAMANIAN, S/O.LUXMANAN,
ELAMASSERY HOUSE, KOYA BAZAR, KUMBALANGI,
KOCHI.

BY ADV. SRI.P.VIJAYA BHANU
SRI.M.REVIKRISHNAN

RESPONDENTS: COMPLAINANT:

STATE OF KERALA REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, REPRESENTING THE EXCISE INSPECTOR
OF KODUNGALLUR, EXCISE RANGE.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6624 of 2007

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Dated this the 31st day of October, 2007

O R D E R

Application for regular bail. The petitioner faces allegations under the Kerala Abkari Act. He was allegedly found to be in possession of 53.100 litres of spirit on 12.10.2007. The petitioner was arrested and he continues in custody.

2. It is the case of the prosecution that the petitioner, pretending to be a Homoeo Practitioner, was making use of spirit, dilute the same and sell the same. Investigation is in progress. Final report has not been filed.

3. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Allegation under Section 55(a) of the Act is not at any rate attracted. In these circumstance the learned counsel prays that regular bail may be granted to the petitioner.

2. The learned Prosecutor opposes the application. He submits that the materials collected, including the confession of the petitioner, clearly show the nature of the culpable and contumacious activity which the petitioner, claiming to be a Homoeo Practitioner,

is indulging in. In a serious crime like this the Investigators may be given sufficient and reasonable time to complete the investigation, submits the Prosecutor.

4. I have considered all the relevant inputs. In the wake of opposition by the Public Prosecutor regular bail can be granted to the petitioner only if this court is in a position to entertain both the satisfactions contemplated under Section 41A of the Kerala Abkari Act. In the facts and circumstances of this case, I am unable to entertain either of those satisfactions. The mere fact that the detecting officer had shown only S.58A and 55(a) of the Abkari Act as the offence committed cannot in the nature of the allegations and materials collected, entitle the petitioner to any benefit or advantage.

5. This application is, in these circumstance, dismissed. But I may hasten to observe that the petitioner shall be at liberty to move the court for bail again at a later stage of the investigation, not at any rate, prior to 14.11.2007. The Investigators shall, in the meantime, make every endeavour to complete the investigation.

(R. BASANT)
Judge

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